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8   **BEFORE THE**
                  BOARD OF REGISTERED NURSING
9   **DEPARTMENT OF CONSUMER AFFAIRS**
                      STATE OF CALIFORNIA
10

11 In the Matter of the Accusation Against: Case No. 2007 - 157

12 MA EVITA C. SAN JOSE, a.k.a.
    MARIA EVITA TAN CONJARES SAN JOSE
13 193 Cottage Grove Ave.   **A C C U S A T I O N**
    Camarillo, CA 93010
14
    Registered Nurse License No. 361204
15
                                    Respondent.
16

17

18   Complainant alleges:

19   **PARTIES**

20   1.   Ruth Ann Terry, M.P.H., R.N. (Complainant) brings this Accusation

21 solely in her official capacity as the Executive Officer of the Board of Registered Nursing

22 (Board), Department of Consumer Affairs.

23   2.   On or about August 31, 1983, the Board issued Registered Nurse License

24 No. 361204 to Ma Evita C. San Jose, a.k.a. Maria Evita Tan Conjares San Jose (Respondent).

25 The Registered Nurse License was in full force and effect at all times relevant to the charges

26 brought herein and will expire on July 31, 2007, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Board, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

STATUTORY PROVISIONS

4. Section 2750 of the Code provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811(b) of the Code, the Board may renew an expired license at any time within eight years after the expiration.

6. Section 2761 of the Code states:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct, which includes, but is not limited to, the following:

(1) Incompetence, or gross negligence in carrying out usual certified or licensed nursing functions.

. . . ."

7. California Code of Regulations, title 16, section 1442, states:

"As used in Section 2761 of the code, 'gross negligence' includes an extreme departure from the standard of care which, under similar circumstances, would have ordinarily been exercised by a competent registered nurse. Such an extreme departure means the repeated failure to provide nursing care as required or failure to provide care or to exercise ordinary precaution in a single situation which the nurse knew, or should have known, could have jeopardized the client's health or life."

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1   8.   California Code of Regulations, title 16, section 1443, states:

2   "As used in Section 2761 of the code, 'incompetence' means the lack of possession

3   of or the failure to exercise that degree of learning, skill, care and experience ordinarily possessed

4   and exercised by a competent registered nurse as described in Section 1443.5."

5   9.   California Code of Regulations, title 16, section 1443.5 states:

6   "A registered nurse shall be considered to be competent when he/she consistently

7   demonstrates the ability to transfer scientific knowledge from social, biological and physical

8   sciences in applying the nursing process, as follows:

9   (1) Formulates a nursing diagnosis through observation of the client's physical

10   condition and behavior, and through interpretation of information obtained from the client and

11   others, including the health team.

12   (2) Formulates a care plan, in collaboration with the client, which ensures that

13   direct and indirect nursing care services provide for the client's safety, comfort, hygiene, and

14   protection, and for disease prevention and restorative measures.

15   (3) Performs skills essential to the kind of nursing action to be taken, explains the

16   health treatment to the client and family and teaches the client and family how to care for the

17   client's health needs.

18   (4) Delegates tasks to subordinates based on the legal scopes of practice of the

19   subordinates and on the preparation and capability needed in the tasks to be delegated, and

20   effectively supervises nursing care being given by subordinates.

21   (5) Evaluates the effectiveness of the care plan through observation of the client's

22   physical condition and behavior, signs and symptoms of illness, and reactions to treatment and

23   through communication with the client and health team members, and modifies the plan as

24   needed.

25   (6) Acts as the client's advocate, as circumstances require, by initiating action to

26   improve health care or to change decisions or activities which are against the interests or wishes

27   of the client, and by giving the client the opportunity to make informed decisions about health

28   care before it is provided."

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1   10.   Section 125.3 of the Code provides, in pertinent part, that the Board may

2 request the administrative law judge to direct a licentiate found to have committed a violation or

3 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation

4 and enforcement of the case.

FIRST CAUSE FOR DISCIPLINE

(Incompetence or Gross Negligence)

7   11.   Respondent is subject to disciplinary action under section 2761,

8 subdivision (a)(1) of the Code on the grounds of unprofessional conduct, in that Respondent was

9 grossly negligent and/or incompetent, within the meaning of California Code of Regulations,

10 title 16, section 1442, as defined in California Code of Regulations, title 16, section 1443.5, in

11 that while on duty as a registered nurse at Ventura County Medical Center (VCMC) in Ventura,

12 California, Respondent committed acts of incompetence and/or gross negligence.

13   The circumstances are that on or about September 13, 2003, Respondent was

14 employed by Haemo-Stat Inc., which contracts to provide a mobile dialysis unit to VCMC. On

15 this same date, Respondent was on duty at VCMC and was simultaneously caring for two

16 dialysis patients located in the same room. In addition to receiving dialysis, patient L.R. was also

17 to receive a blood transfusion. Instead of giving the blood transfusion to patient L.R.,

18 Respondent gave the blood transfusion to patient J.V. Patient J.V.'s blood type is "A" positive,

19 whereas patient L.R.'s blood type is "O" positive. As a result, patient J.V.'s condition became

20 critical and he had to be treated in the intensive care unit. In the course of administering a blood

21 transfusion to the wrong patient, Respondent committed numerous other related acts of

22 incompetence and/or gross neglience, as follows:

23   a.   Respondent was grossly negligent and incompetent in that she

24 administered a blood transfusion to the wrong patient.

25   b.   Respondent was grossly negligent in that she failed to check the patient's

26 chart for physician orders to administer a blood transfusion. There were no physician orders for a

27 blood transfusion for patient J.V.

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c. Respondent was incompetent in that she failed to have a secondary identification verification conducted by a second licensed nurse, as required by VCMC's protocol, prior to administering the blood transfusion to patient J.V.

d. Respondent was incompetent in that she failed to observe that patient J.V. was not wearing a red blood wristband, which would indicate that there were no physician's orders that patient J.V. receive a blood transfusion.

e. Respondent was grossly negligent in that she failed to match the blood bank number with the patient's red blood wristband.

f. Respondent was grossly negligent in that she failed to obtain a signed "Agreement for Blood Transfusion" from patient J.V., and after the blood transfusion, forged a signed "Agreement for Blood Transfusion" form.

g. Respondent was grossly negligent in that she failed to check patient J.V.'s chart prior to administering the blood transfusion.

h. Respondent was incompetent in that she failed to assemble all the equipment prior to requesting blood from the blood bank. Respondent ordered and obtained the blood and then had to wait for blood tubing to arrive before she could hang the blood for the transfusion.

i. Respondent was incompetent in that she followed her own procedures in conducting the blood transfusion, instead of following VCMC's established protocol.

j. Respondent was grossly negligent in that she failed to properly record the period of time that patient J.V. was receiving the blood transfusion.

SECOND CAUSE FOR DISCIPLINE

(Unprofessional Conduct - Falsification of Record)

12. Respondent is subject to disciplinary action under section 2761, subdivision (a) of the Code on the grounds of unprofessional conduct, in that on or about September 13, 2003, Respondent falsified an "Agreement for Blood Transfusion" form for patient J.V. as more fully set forth in paragraph 12, subdivision f., above.

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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1.   Revoking or suspending Registered Nurse License No. 361204, issued to Ma Evita C. San Jose, a.k.a. Maria Evita Tan Conjares San Jose.

2.   Ordering Maria Evita Tan Conjares San Jose to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

3.   Taking such other and further action as deemed necessary and proper.

DATED: _12-18-06_

RUTH ANN TERRY, M.P.H., R.N.
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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